

July 20, 2004

Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: Petition for Rule Making
Melvin, Texas

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of a
Petition for Rule Making to add Channel 242A at Melvin,
Texas.

Respectfully submitted,

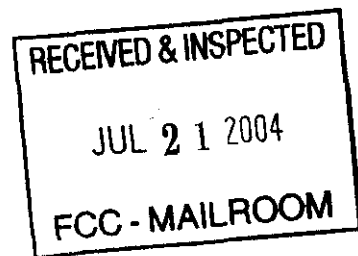
A handwritten signature in dark ink, appearing to be "Charles Crawford", written over a horizontal line.

Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205
(214) 520-7077 Tele
(214) 443-9308 Fax

MMMelvin Cov

No. of Copies rec'd 0*4
List ABCDE
7m-mB
04-136

Before the
Federal Communications Commission
Washington, D.C. 20554



In the Matter of)
)
Amendment of 73.202 (b)) MB Docket No. _____
Table of Allotments)
FM Broadcast Stations)
(Melvin, Texas))

To: John Karousos, Chief
Allocations Branch
Mass Media Bureau

PETITION FOR RULE MAKING

Pursuant to 47 C.F.R. 1.401, Charles Crawford respectfully petitions the FCC to institute a Rule Making proceeding to amend the FM Table of Allotments to add Channel 242A at Melvin, Texas.

DISCUSSION

Petitioner respectfully submits that the public interest would be served by allocating Channel 242A to Melvin, Texas as that community's first local transmission service. Melvin, Texas is an incorporated community with a population of 155 people.¹ Melvin has its own post office, its own fire department, its own mayor, Billy Joe Farris, its own city offices and a number of local churches. Melvin is a community that is certainly deserving of a local FM service. The proposed channel 242A will provide

¹ According to the 2002/ 2003 Texas Almanac.

additional diversity and an outlet for local self-expression to Melvin residents and therefore is in the public interest.

In order for Channel 242A to be allotted at Melvin, Texas, two vacant allotments will need to be replaced with equal channels while still providing for complete city grade coverage over their city of license. These vacant allotments are: Channel 242A at Menard, Texas and Channel 292A at Junction, Texas.

The proposed changes are as follows:

	<u>Current</u>	<u>Proposed</u>
Melvin, TX		242A
Menard, TX	242A	292A
Junction, TX	292A	224A

Attached hereto is a channel study confirming that Channel 242A can be allocated to Melvin, Texas consistent with the FCC's FM separation rules provided the necessary changes are made at Menard, Texas. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (See, Attachment A)

Reference coordinates for Channel 242A at Melvin, Texas are:

31 09 00 N
99 42 30 W

In order for Channel 242A to be allotted at Melvin, Texas, the vacant allotment for Channel 242A at Menard,

Texas must be replaced by Channel 292A. Attached hereto is a channel study confirming that Channel 292A can be allocated to Menard, Texas consistent with the FCC's FM separation rules provided the necessary changes are made at Junction, Texas. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88. (See, Attachment B) Reference coordinates for Channel 292A at Menard, Texas are:

30 52 00 N
99 40 00 W

In order for channel 292A to be allotted to Menard, Texas, the vacant allotment for Channel 292A at Junction, Texas must be replaced by Channel 224A. Attached hereto is a channel study confirming that Channel 224A can be allocated to Junction, Texas consistent with the FCC's FM separation rules. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88. (See, Attachment C) Note: The vacant allotment for Channel 224A at Mason was replaced with Channel 259A, per Report & Order, DA 03-826, released March 21, 2003. (See, Attachment D) Reference coordinates for Channel 224A at Junction, Texas are:

30 28 30 N
99 42 00 W

Should this petition be granted and Channel 242A allotted to Melvin, Texas, Petitioner will apply for Channel 242A, and after it is authorized, will promptly construct the new facility.

The factual information provided in this Petition for Rule Making is correct and true to the best of my knowledge.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Charles Crawford', written over a horizontal line.

Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205
(214) 520-7077 Tele

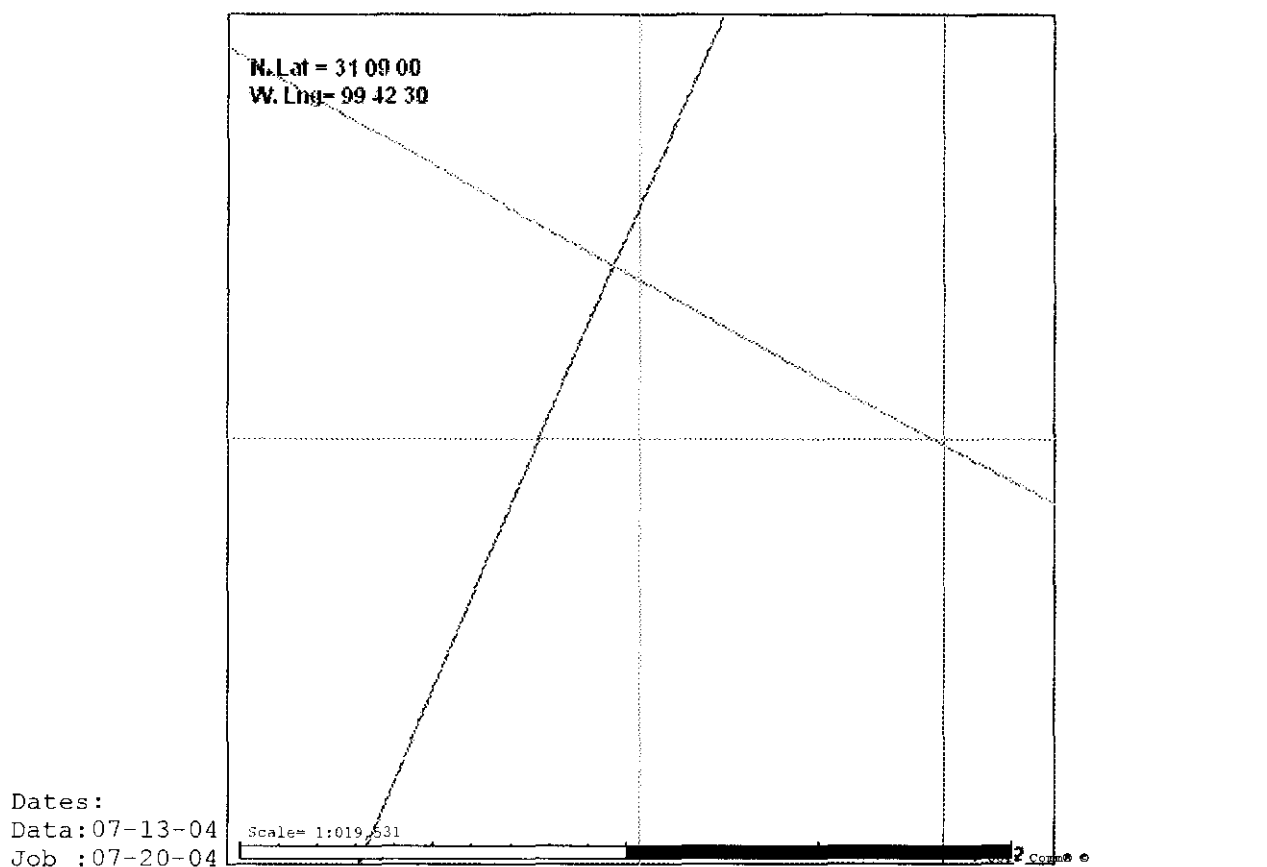
cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite 600, 1050 17th Street, N.W., Washington, D.C. 20036, telephone (202) 496-1289, telecopier (301) 762-0156, attorney for Charles Crawford. It is requested that the Commission and any parties who may file pleadings in the captioned matter serve copies to Mr. Bechtel as well as Charles Crawford.

July 20, 2004

MMMelvin

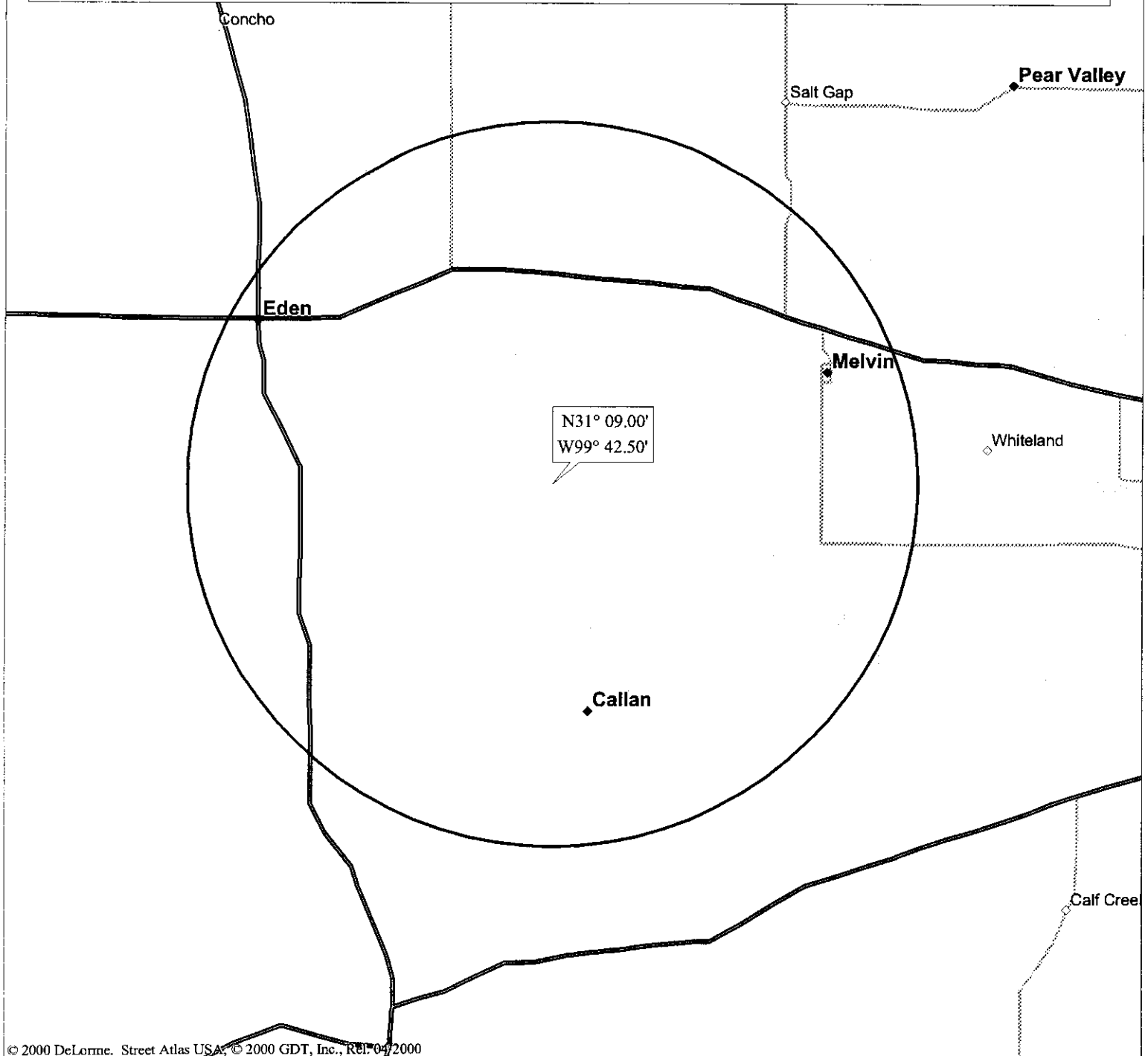
Attachment A

(Channel study for Channel 242A at Melvin, Texas)

FM PROSP^(TM) LOCATE STUDY CH 242 A 96.3 MHz

Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
ALLO.V	242A	VAC	Menard	TX	22.87	221.8	115.0	-92.13
RDEL	242A	DEL	Llano	TX	114.76	113.9	115.0	-0.24
KXYLFM	245C1	LIC N	Brownwood	TX	75.35	28.1	75.0	0.35
KBAE	242A	LIC-Z	Llano	TX	120.23	115.1	115.0	5.23
KCSE	243C2	LIC	Sterling City	TX	119.04	295.1	106.0	13.04
KORQ	241C2	LIC	Winters	TX	119.27	351.8	106.0	13.27
RDEL	239C2	DEL	Mason	TX	69.31	159.4	55.0	14.31
KOTY.C	239C2	CP	Mason	TX	69.31	159.4	55.0	14.31
RADD	241A	ADD	Eldorado	TX	92.04	248.9	72.0	20.04
RADD	296A	ADD	Brady	TX	33.40	94.9	10.0	23.40
RADD	240C2	ADD	Mertzon	TX	79.01	267.9	55.0	24.01
KTDR	242C1	LIC	Del Rio	TX	224.35	217.5	200.0	24.35
RADD	243C3	ADD	Kerrville	TX	127.33	160.7	89.0	38.33
RADD	243A	ADD	Goldthwaite	TX	122.44	69.4	72.0	50.44
ALLO.V	243A	VAC	Ingram	TX	127.52	159.1	72.0	55.52
RDEL	243A	DEL	Ingram	TX	127.52	159.1	72.0	55.52
KXXM	241C1	LIC	San Antonio	TX	197.48	148.2	133.0	64.48
ALLO.V	243C3	VAC	Baird	TX	162.39	11.4	89.0	73.39

Melvin, TX CH 242A 70 dBu



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



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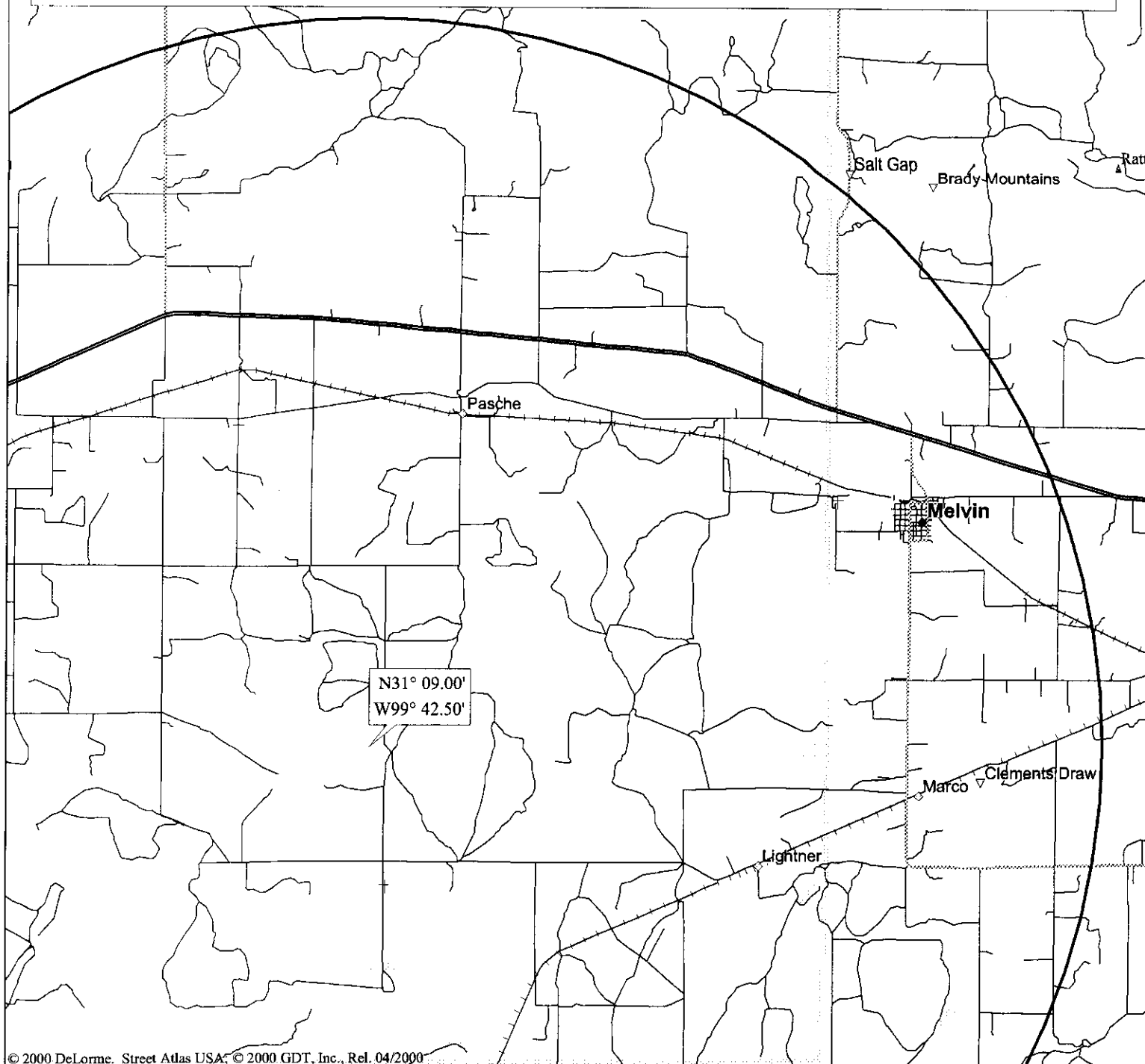
Scale 1:250,000 (at center)

5 Miles

5 KM

-  US Highway
-  Major Connector
-  Small Town
-  Locale
-  Water

Melvin, TX CH 242A 70 dBu



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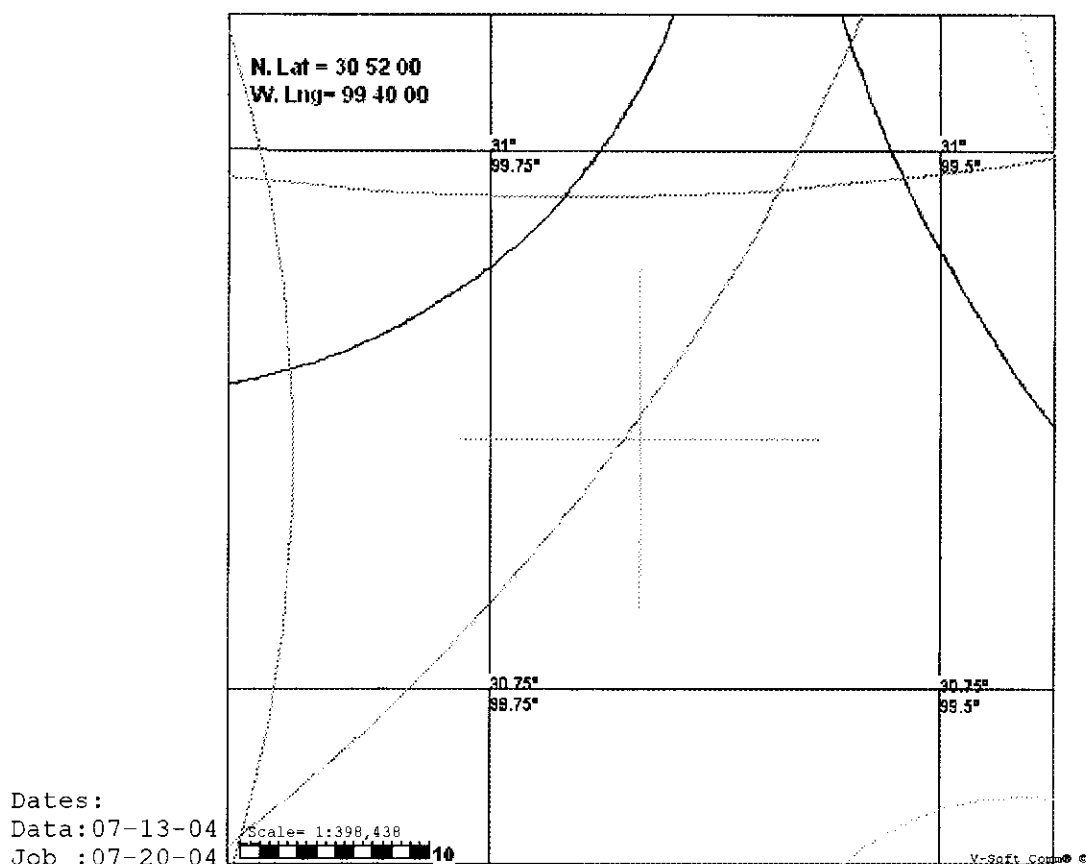
2 Miles

2 KM

- | | |
|----------------------|----------------------|
| — Local Road | — Railroad Abandoned |
| — Trail | + Cemetery |
| — US Highway | --- County Boundary |
| --- Major Connector | Water |
| ◆ Small Town | |
| ▲ Summit | |
| ▽ Geographic Feature | |
| ◇ Locale | |

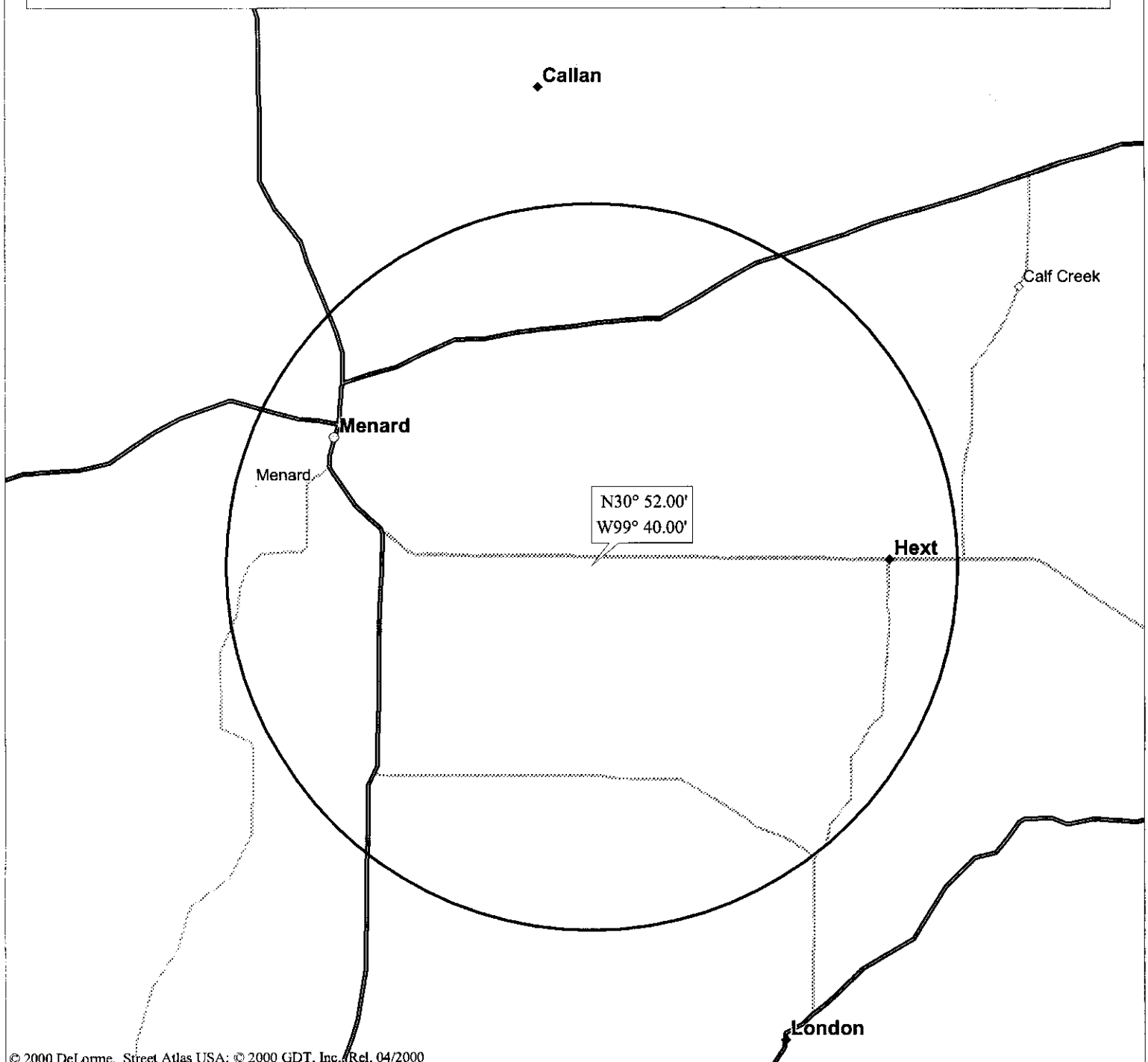
Attachment B

(Channel study for Channel 292A at Menard, Texas)

FM PROSP^(TM) LOCATE STUDY CH 292 A 106.3 MHz


Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
ALLO.V	292A	VAC	Junction	TX	43.04	193.5	115.0	-71.96
KMDX	291C2	LIC N	San Angelo	TX	106.67	306.6	106.0	0.67
RADD	294A	ADD	Eden	TX	42.89	321.1	31.0	11.89
KKHR	292C2	LIC	Abilene	TX	178.49	358.8	166.0	12.49
ALLO.V	293A	VAC	Eldorado	TX	90.42	269.3	72.0	18.42
RADD	291A	ADD	Richland Springs	TX	90.64	60.7	72.0	18.64
KOTY.C	239C2	CP	Mason	TX	39.20	148.7	15.0	24.20
RDEL	239C2	DEL	Mason	TX	39.20	148.7	15.0	24.20
KBALFM	291A	LIC	San Saba	TX	97.68	68.1	72.0	25.68
RDEL	291A	DEL	San Saba	TX	97.68	68.1	72.0	25.68
ALLO.V	291A	VAC	Kerrville	TX	105.02	151.8	72.0	33.02
KBALFA	291A	APP-Z	San Saba	TX	110.20	62.8	72.0	38.20
AL289	289C3	RSV	Fredericksburg	TX	81.35	130.1	42.0	39.35
RADD	293A	ADD	Sunrise Beach Vi	TX	112.56	107.9	72.0	40.56
RADD	291A	ADD	Center Point	TX	116.86	148.6	72.0	44.86
RADD	291A	ADD	Rocksprings	TX	120.07	212.3	72.0	48.07
KNAFFC	289C3	CP -Z	Fredericksburg	TX	91.20	127.6	42.0	49.20
ALLO.V	295C2	VAC	Rocksprings	TX	110.38	214.5	55.0	55.38
RDEL	295C2	DEL	Rocksprings	TX	110.38	214.5	55.0	55.38
KOOC	292C3	LIC	Belton	TX	205.14	83.3	142.0	63.14

Menard, TX CH 292A 70 dBu



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Scale 1:250,000 (at center)

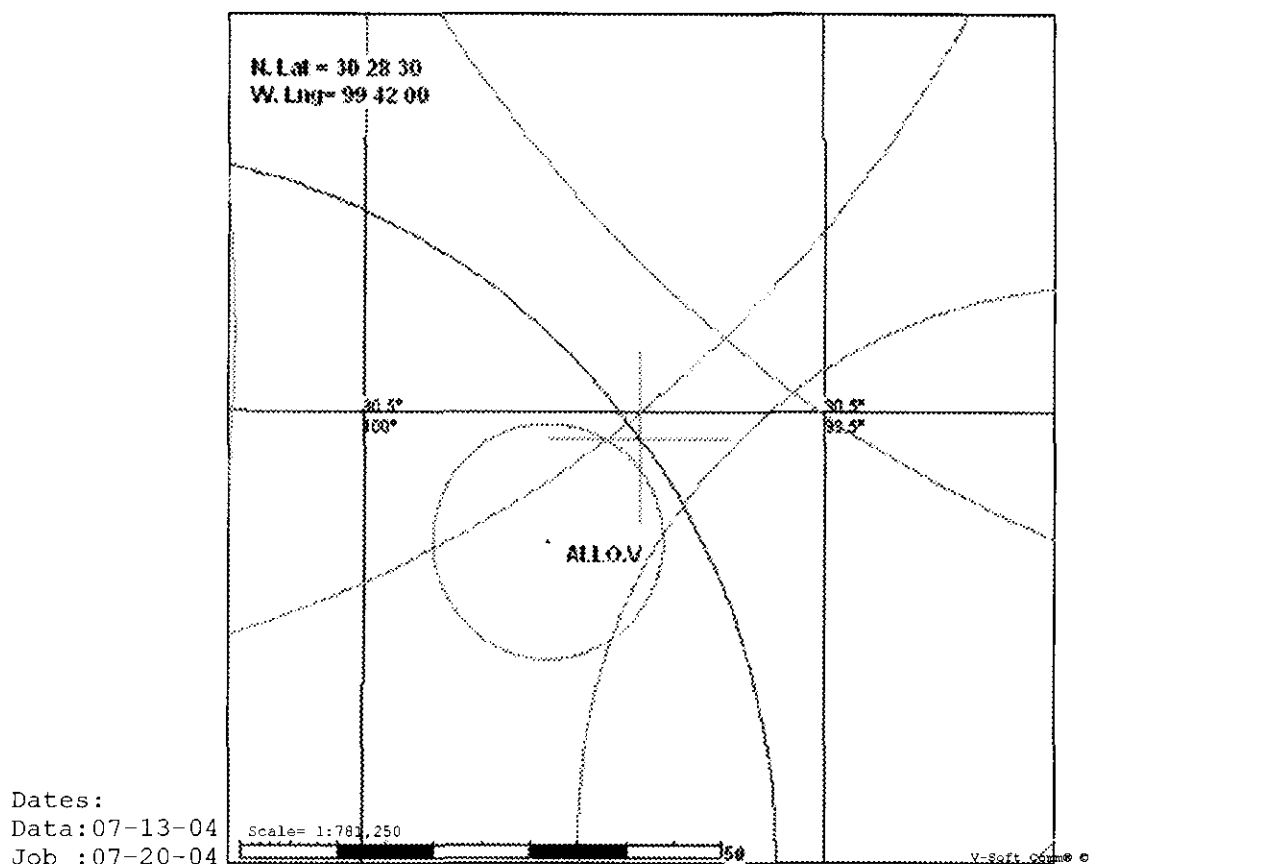
5 Miles

5 KM

-  US Highway
 Major Connector
 State Route
 County Seat
 Small Town
 Locale
 Water

Attachment C

(Channel study for Channel 224A at Junction, Texas)



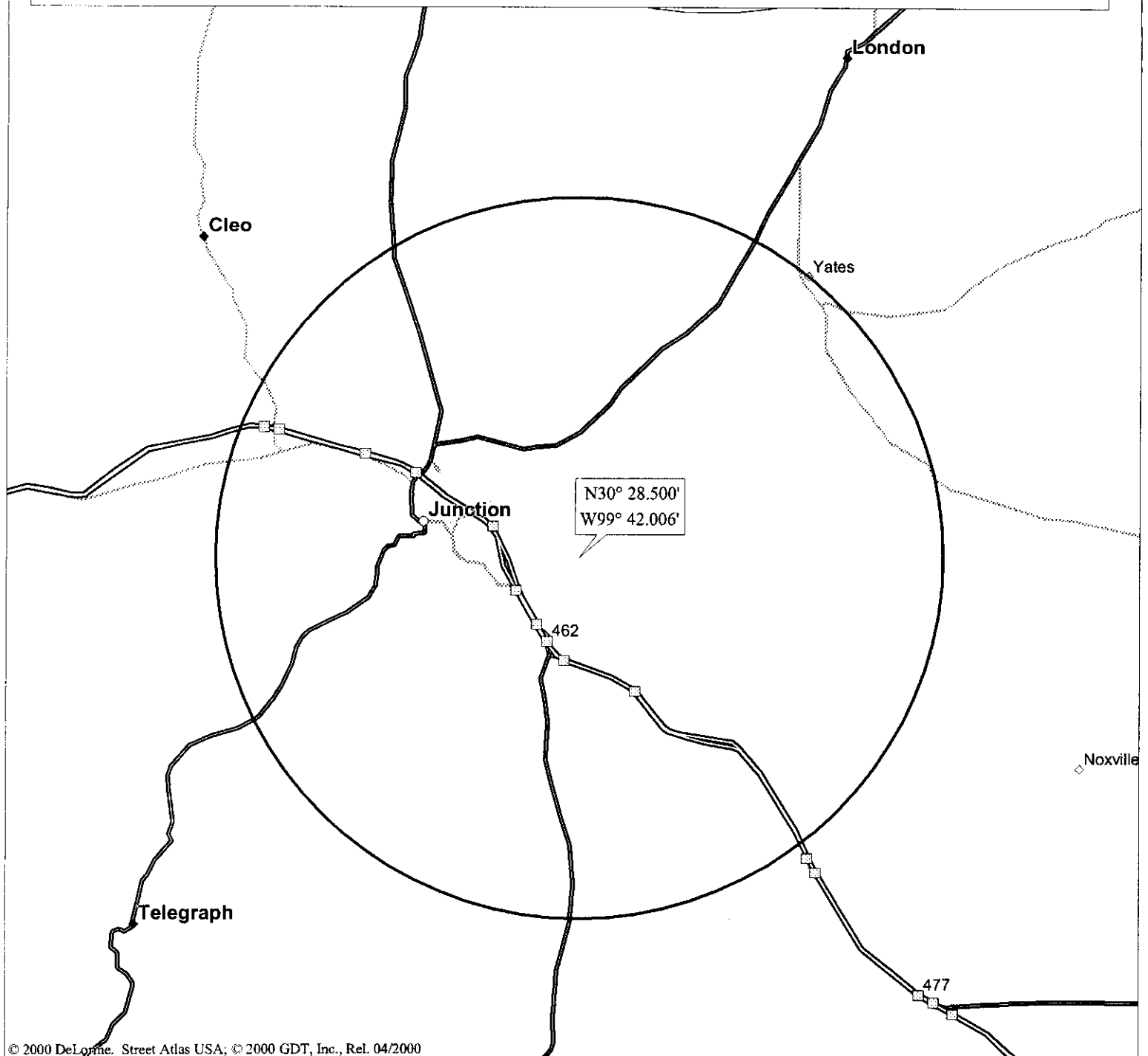
Dates:

Data:07-13-04

Job :07-20-04

Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
ALLO.V	224A	VAC	Mason	TX	54.15	55.5	115.0	-60.85
ALLO.V	223A	VAC	Rocksprings	TX	71.94	233.4	72.0	-0.06
KDCD	225C1	LIC	San Angelo	TX	135.03	322.4	133.0	2.03
ALLO.V	277C3	VAC	Junction	TX	14.17	222.4	12.0	2.17
KRNH	222C2	LIC-Z	Kerrville	TX	62.72	129.2	55.0	7.72
ALLO.V	224C3	VAC	Mullin	TX	155.38	39.1	142.0	13.38
ALLO.V	224C2	VAC	Sheffield	TX	208.40	273.0	166.0	42.40
ALLO.V	226A	VAC	Leakey	TX	82.99	184.2	31.0	51.99
KHOSFM	221A	LIC	Sonora	TX	89.91	276.2	31.0	58.91
KROM	225C1	LIC N	San Antonio	TX	192.19	133.6	133.0	59.19
RDEL	223A	DEL	Burnet	TX	135.77	77.0	72.0	63.77
KBeyFC	223A	CP	Burnet	TX	135.77	77.0	72.0	63.77
KBeyFM	223A	LIC	Burnet	TX	135.77	77.0	72.0	63.77
KINL	224C3	LIC	Eagle Pass	TX	207.85	201.8	142.0	65.85
KDHT	227C	LIC	Cedar Park	TX	166.36	79.9	95.0	71.36
KHTY	223C2	LIC	Devine	TX	182.97	159.8	106.0	76.97
KULL	223C2	LIC	Abilene	TX	198.59	359.8	106.0	92.59
RS224	224C3	RSV	Elgin	TX	242.74	96.9	142.0	100.74
ALLO.	225A		Ciudad Acuna	CI	174.26	223.2	61.0	113.26
XHCDUF	225A	OPE	Ciudad Acuna	CI	174.26	223.2	61.0	113.26
ALLO.V	278C2	VAC	Mertzson	TX	135.17	305.1	15.0	120.17
KNBT	221A	LIC-Z	New Braunfels	TX	173.21	118.2	31.0	142.21
RADD	223A	ADD	Elgin	TX	215.88	95.5	72.0	143.88
RDEL	225C2	DEL	Marlin	TX	254.91	72.0	106.0	148.91
KKLB.C	223A	CP -Z	Elgin	TX	222.89	96.8	72.0	150.89
RADD	278A	ADD	Brownwood	TX	160.97	27.1	10.0	150.97
RDEL	278C	DEL	San Marcos	TX	181.47	104.8	29.0	152.47
KEYIFM	278C*	LIC	San Marcos	TX	181.47	104.8	29.0	152.47

Junction, TX CH 224A 70 dBu



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Scale 1:250,000 (at center)

5 Miles

5 KM

- | | |
|------------------------------|-----------|
| — Local Road | ◇ Locale |
| == US Highway | --- Water |
| == Interstate/Limited Access | |
| --- Major Connector | |
| --- State Route | |
| ■ Exit | |
| ○ County Seat | |
| ◆ Small Town | |

Attachment D

(Report 7 Order for MM Docket No. 01-159, DA 03-826,
released March 21, 2003)

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 01-159
Table of Allotments,)	RM-10164
FM Broadcast Stations.)	RM-10395
(Comanche, Mullin and Mason, Texas) ¹)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 19, 2003

Released: March 21, 2003

By the Assistant Chief, Audio Division:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* ("Notice"),² issued in response to a petition filed by Charles Crawford ("Petitioner"), proposing the allotment of Channel 224A to Comanche, Texas, as that community's second local FM transmission service (RM-10164). Petitioner filed supporting comments. A counterproposal was filed on behalf of Mullin Broadcasters ("MB"), proposing the allotment of Channel 224C3 at Mullin, Texas, as that community's first local aural transmission service.³ MB also requests the substitution of Channel 259A for vacant Channel 224A at Mason, Texas, to accommodate its proposal. Responsive comments were filed individually by the Petitioner, MB and M&M Broadcasters, Ltd. ("M&M").

2. MB states that Mullin, Texas, is a community for allotment purposes. In support of its proposal, MB reports that Mullin is an incorporated community, and is attributed with a population of 175 persons in the 2000 U.S. Census. Further, MB provided demographic information regarding Mullin to demonstrate that it has its own zip code (76864), maintains its own schools, fire services, churches, health care facilities and numerous business entities, several of which identify themselves with the community in their trade name, such as the Mullin Café and Mullin Service Center. MB asserts that in accordance with the Commission's allotment priorities,⁴ Mullin is entitled to a first local service preference (priority three), since Comanche currently has local aural service.⁵

¹ The communities of Mullin and Mason, Texas, have been added to the caption.

² *Comanche, Texas*, 16 FCC Rcd 14075 (MB 2001).

³ MB's counterproposal was placed on Public Notice March 15, 2002 (Report No. 2539).

⁴ The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters (co-equal weight is given to priorities (2) and (3)). See *Revisions of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

⁵ Comanche is served locally by Station KYOX-FM and KCON-AM.

3. MB also advises that the requested allotment of Channel 224C3 at Mullin requires the substitution of Channel 259A for vacant Channel 224A at Mason, Texas.⁶ MB reports that Channel 259A can be allotted to Mason, Texas, at the reference coordinates for the Channel 224A allotment, consistent with the technical requirements of the Commission's Rules.⁷

4. In response to MB's counterproposal, Petitioner suggests that Channel 263A could be allotted to Mullin instead of Channel 224C3, to remove the conflict with proposed Channel 224A at Comanche, Texas. Petitioner also remarks that MB's request to substitute Channel 259A for Channel 224A at Mason is unavailable because it conflicts with proposed Channel 258C1 at Eldorado, Texas.

5. MB disputes Petitioner's arguments. Initially, MB states that there is no conflict between the Mason and Eldorado allotments.⁸ MB also argues that Petitioner's suggested substitution of Channel 263A for requested Channel 224C3 at Mullin, Texas, to remove a conflict with his proposal for Channel 224A at Comanche, is not equivalent. MB concludes that since the Comanche and Mullin, Texas, proposals remain in conflict, they must be compared according to the Commission's allotment priorities.

6. M&M's reply comments support the requested allotment of Channel 224C3 at Mullin, and commit to apply for the channel if allotted. M&M endorses Mullin's eligibility as a *bona fide* community that would benefit by the allotment of a first local broadcast service to serve the needs and interests of its residents.

7. A staff review of the proposals under consideration herein, reveals the unavailability of any other Class A channel for use at Comanche, or an alternate Class C3 channel for allotment at Mullin, Texas. Conflicting proposals are generally considered under the guidelines set forth in our allotment priorities, *supra*. Neither the Petitioner nor MB, respectively, demonstrated that the requested allotment of Channel 224A at Comanche, or Channel 224C3 at Mullin, Texas, would provide any first or second fulltime aural reception service, thus eliminating allotment priorities (1) and (2). Therefore, since MB's proposal for Channel 224C3 at Mullin would provide a first local aural service at that community (priority 3), whereas Comanche currently receives local aural service (priority 4), the Mullin proposal prevails.⁹ Additionally, contrary to Petitioner's assertion, we find that Channel 259A is available for

⁶ The distance between Mullin and Mason is 105 kilometers (65 miles) whereas a minimum distance of 142 kilometers (88 miles) is required between Class A and Class C3 co-channel allotments.

⁷ Channel 224A at Mason was listed among other vacant nonreserved band FM allotments, in Broadcast Auction No. 37, previously scheduled to commence on December 5, 2001. However, on July 3, 2001, the United States Court of Appeals for the District of Columbia Circuit in *National Public Radio, Inc., et al v. FCC, Nos. 00-1246 and 00-1255* (decided July 3, 2001) ("*NPR*") vacated the portion of the Commission's *Noncommercial Report and Order*, 65 FR 36375 (June 8, 2000), that required noncommercial educational ("*NCE*") entities that applied for authorizations in the non-reserved spectrum to participate in auctions with mutually exclusive commercial applicants. As the vacant nonreserved FM band allotments included in Auction No. 37 are potentially impacted by the Court's ruling, the Commission postponed Auction No. 37, pending its response to the *NPR* decision. See Public Notice, DA 01-2148, released September 14, 2001, 66 FR 48467 (September 20, 2001).

⁸ The distance separation between proposed Channel 258C1 at Eldorado and requested Channel 259A at Mason, Texas, is 133.3 kilometers (83 miles), and therefore meets the required minimum distance separation between first adjacent Class A and Class C1 channels.

allotment at Mason, Texas, as a replacement for vacant Channel 224A, and is not in conflict with proposed Channel 258C1 at Eldorado, Texas.¹⁰

8. In view of the interests expressed in providing Mullin, Texas, with a first local aural service, we will allot Channel 224C3 to that community, as requested. Channel 224C3 can be allotted to Mullin consistent with the minimum distance separation requirements specified in Section 73.207(b) of the Commission's Rules without a site restriction.¹¹ Additionally, we will allot Channel 259A as a replacement for vacant Channel 224A at Mason, Texas, at the current reference site for the vacant allotment.¹²

9. As Mason, Texas, is located within 320 kilometers (199 miles) of the U.S.-Mexico border, we will advise the Mexican government of the change to the FM Table of Allotments at that community.

10. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Commission's Rules, IT IS ORDERED, That effective **May 5, 2003**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Mason, Texas	239C2, 259A, 269C3, 273C2, 281C2, 289C2
Mullin, Texas	224C3

11. A filing window for Channel 259A at Mason, Texas, and for Channel 224C3 at Mullin, Texas, will not be opened at this time. Instead, the issue of opening a filing window for those channels will be addressed by the Commission in a subsequent order.

12. IT IS FURTHER ORDERED, That the petition for rule making filed by Charles Crawford (RM-10164), requesting the allotment of Channel 224A to Comanche, Texas, IS DENIED.

13. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

⁹ Additionally, in accordance with Commission policy, we will allot the highest class channel requested to a community that meets the technical provisions of our Rules. In that manner we can assure the most effective and efficient management of the frequency spectrum while providing the public with the greatest coverage area broadcast facility to the requested community. It has been demonstrated that Channel 224C3 is available to Mullin, and therefore, we would not consider a Class A allotment at that community in this proceeding.

¹⁰ See footnote 8, supra.

¹¹ Reference coordinates for Channel 224C3 at Mullin, Texas, are 31-33-24 NL and 98-39-55 WL.

¹² Reference coordinates for Channel 259A at Mason, Texas, are 30-45-00 NL and 99-14-00 WL.

14. For further information concerning the above, contact Nancy Joyner, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau